

Executive Summary – Enforcement Matter – Case No. 41952
Main Street Business, Inc. dba Sunrise Food Mart
RN102366184
Docket No. 2011-1068-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Sunrise Food Mart, 9986 Bissonnet Street, Houston, Harris County

Type of Operation:

Convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 16, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,850

Amount Deferred for Expedited Settlement: \$1,770

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,000

Total Due to General Revenue: \$5,080

Payment Plan: 2 monthly payments of \$2,000 and one final payment of \$1,080

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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RN102366184
Docket No. 2011-1068-PST-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 8, 2010

Date(s) of NOE(s): June 7, 2011

Violation Information

1. Failed to report to the TCEQ a suspected release within 24 hours after discovery. Specifically, inventory control records for the months of May and June 2010 indicated a suspected release that was not reported to the TCEQ [30 TEX. ADMIN. CODE § 334.72].
2. Failed to investigate a suspected release of regulated substances within 30 days of discovery. Specifically, inventory control records for the months of May and June 2010 indicated a suspected release, which should have been investigated by July 30, 2010, but was not investigated until September 10, 2010 [30 TEX. ADMIN. CODE § 334.74].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures at the Facility:

- a. On September 10, 2010, investigated the suspected release by reviewing spreadsheet formulas and correcting one that was discovered to be incorrect; and
- b. On June 27, 2011, submitted passing inventory control results for September 2010 through May 2011.

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, establish and implement a process for reporting suspected releases; and
- b. Within 15 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 41952
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RN102366184
Docket No. 2011-1068-PST-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Trina Grieco, Enforcement Division,
Enforcement Team 5, MC R-13, (210) 403-4006; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412.

TCEQ SEP Coordinator: N/A

Respondent: Karim Ali, President, Main Street Business, Inc., 9986 Bissonnet Street,
Houston, Texas 77036-8204

Respondent's Attorney: N/A





Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|-----|
| DATES | Assigned | 13-Jun-2011 | Screening | 22-Jun-2011 | EPA Due | N/A |
| | PCW | 29-Jun-2011 | | | | |

RESPONDENT/FACILITY INFORMATION

| | |
|-----------------------------|--|
| Respondent | Main Street Business, Inc. dba Sunrise Food Mart |
| Reg. Ent. Ref. No. | RN102366184 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Major |

CASE INFORMATION

| | | | |
|--|------------------------|------------------------------|--------------------|
| Enf./Case ID No. | 41952 | No. of Violations | 2 |
| Docket No. | 2011-1068-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Trina Grieco |
| | | EC's Team | Enforcement Team 5 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$12,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **-10.0%** Enhancement **Subtotals 2, 3, & 7** **-\$1,250**

Notes Reduction for High Performer Classification.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$2,500**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$126
Approx. Cost of Compliance \$1,350
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,750**

OTHER FACTORS AS JUSTICE MAY REQUIRE **1.1%** **Adjustment** **\$100**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement for recovery of avoided costs associated with Violation No. 1.

Final Penalty Amount **\$8,850**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$8,850**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,770**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY **\$7,080**

Screening Date 22-Jun-2011

Docket No. 2011-1068-PST-E

PCW

Respondent Main Street Business, Inc. dba Sunrise Food Mart

Policy Revision 2 (September 2002)

Case ID No. 41952

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102366184

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for High Performer Classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 22-Jun-2011

Docket No. 2011-1068-PST-E

PCW

Respondent Main Street Business, Inc. dba Sunrise Food Mart

Policy Revision 2 (September 2002)

Case ID No. 41952

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102366184

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.72

Violation Description

Failed to report to the TCEQ a suspected release within 24 hours after discovery. Specifically, inventory control records for the months of May and June 2010 indicated a suspected release that was not reported to the TCEQ.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Major | Moderate | Minor |
|-----------|-------|----------|-------|
| Actual | | | |
| Potential | | | |

Percent 0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | x | | |

Percent 25%

Matrix Notes

The Respondent failed to comply with 100% of the rule requirement.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$2,500

One single event is recommended based on documentation of the violation during the September 8, 2010 investigation.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

x

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$120

Violation Final Penalty Total \$2,276

This violation Final Assessed Penalty (adjusted for limits) \$2,276

Economic Benefit Worksheet

Respondent Main Street Business, Inc. dba Sunrise Food Mart
Case ID No. 41952
Reg. Ent. Reference No. RN102366184
Media Petroleum Storage Tank
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|------------|------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$250 | 1-Jul-2010 | 1-Feb-2012 | 1.59 | \$20 | n/a | \$20 |

Notes for DELAYED costs

Estimated expense to establish and implement a process for reporting a suspected release. The Date Required is the date the report was due. The Final Date is the date corrective actions are projected to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|-------|------------|------------|------|-----|-------|-------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | \$100 | 1-Jul-2010 | 1-Jul-2010 | 0.00 | \$0 | \$100 | \$100 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated expense to report a suspected release. The Date Required and Final Date are the date the suspected release report was due.

Approx. Cost of Compliance

\$350

TOTAL

\$120

Screening Date 22-Jun-2011

Docket No. 2011-1068-PST-E

PCW

Respondent Main Street Business, Inc. dba Sunrise Food Mart

Policy Revision 2 (September 2002)

Case ID No. 41952

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102366184

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.74

Violation Description

Failed to investigate a suspected release of regulated substances within 30 days of discovery. Specifically, inventory control records for the months of May and June 2010 indicated a suspected release, which should have been investigated by July 30, 2010, but was not investigated until September 10, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | x | | |

Percent 50%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2

42 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$10,000

Two monthly events are recommended from the investigation due date (July 30, 2010) to the September 10, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$2,500

Before NOV NOV to EDPRP/Settlement Offer

| | |
|---------------|---------------|
| Extraordinary | |
| Ordinary | x |
| N/A | (mark with x) |

Notes

The Respondent completed corrective actions on September 10, 2010, prior to the June 7, 2011 Notice of Enforcement.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$6,574

This violation Final Assessed Penalty (adjusted for limits) \$6,574

Economic Benefit Worksheet

Respondent Main Street Business, Inc. dba Sunrise Food Mart
Case ID No. 41952
Reg. Ent. Reference No. RN102366184
Media Petroleum Storage Tank
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,000 | 30-Jul-2010 | 10-Sep-2010 | 0.12 | \$6 | n/a | \$6 |

Notes for DELAYED costs

Estimated expense to investigate a suspected release (estimated amount paid to a contractor to review computer spreadsheet formulas). The Date Required is the date the suspected release was required to be investigated. The Final Date is the date corrective actions were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$6

Compliance History

Customer/Respondent/Owner-Operator: CN603271164 Main Street Business, Inc. Classification: HIGH Rating: 0.00
Regulated Entity: RN102366184 SUNRISE FOOD MART Classification: HIGH Site Rating: 0.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 39841
REGISTRATION
Location: 9986 BISSONNET ST, HOUSTON, TX, 77036
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: June 16, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 16, 2006 to June 16, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Trina Grieco Phone: (210) 403-4006

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Main Street Business, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)? Diamond Shamrock Refining and Marketing Company
5. When did the change(s) in owner or operator occur? 10/05/2007
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 12/18/2007 (610815)
2 06/07/2011 (893352)
3 04/25/2011 (913134)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MAIN STREET BUSINESS, INC.
DBA SUNRISE FOOD MART
RN102366184**

**§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-1068-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Main Street Business, Inc. dba Sunrise Food Mart ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 9986 Bissonnet Street in Houston, Harris County, Texas (the "Facility").
2. The Respondent's one underground storage tank ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 12, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Eight Hundred Fifty Dollars (\$8,850) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Respondent has paid Two Thousand Dollars (\$2,000) of the administrative penalty and One Thousand Seven Hundred Seventy Dollars (\$1,770) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Five Thousand Eighty Dollars (\$5,080) of the administrative penalty shall be payable in two (2) monthly payments of Two Thousand Dollars (\$2,000) each and one final payment of One Thousand Eighty Dollars (\$1,080). The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On September 10, 2010, investigated the suspected release by reviewing spreadsheet formulas and correcting one that was discovered to be incorrect; and
 - b. On June 27, 2011, submitted passing inventory control results for September 2010 through May 2011.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to report to the TCEQ a suspected release within 24 hours after discovery, in violation of 30 TEX. ADMIN. CODE § 334.72, as documented during an investigation conducted on September 8, 2010. Specifically, inventory control records for the months of May and June 2010 indicated a suspected release that was not reported to the TCEQ.
2. Failed to investigate a suspected release of regulated substances within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74, as documented during an investigation conducted on September 8, 2010. Specifically, inventory control records for the months of May and June 2010 indicated a suspected release, which should have been investigated by July 30, 2010, but was not investigated until September 10, 2010.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Main Street Business, Inc. dba Sunrise Food Mart, Docket No. 2011-1068-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, establish and implement a process for reporting suspected releases, in accordance with 30 TEX. ADMIN. CODE § 334.72; and
 - b. Within 15 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation

including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

10/14/11
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

K a s
Signature

10/14/11
Date

KARIM ALI
Name (Printed or typed)
Authorized Representative of
Main Street Business, Inc. dba Sunrise Food Mart

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.